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**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Application Number: 10/537,890
Filing Date: June 07, 2005
Appellant(s): SOUNDARARAJAN, ARAVIND

Philip Jensen
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed 06/21/2010 appealing from the Office action mailed 09/17/2009.

(1) Real Party in Interest

The examiner has no comment on the statement, or lack of statement, identifying by name the real party in interest in the brief.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The following is a list of claims that are rejected and pending in the application:

Claims 1 – 31 are currently rejected and pending.

(4) Status of Amendments After Final

The appellant's statement regarding a response after final that included no amendments to the claims and filed on December 15, 2009 is correct. However, the statement regarding that no amendments to the claims have been filed subsequent to the Final Office action of June 2, 2008 is incorrect; since claim 11 of the set of claims filed on May 19, 2009 was amended by the appellant.

No amendments to the claims have been filed subsequent to the final office action of September 17, 2009.

(5) Summary of Claimed Subject Matter

The examiner has no comment on the summary of claimed subject matter contained in the brief.

(6) Grounds of Rejection to be Reviewed on Appeal

The examiner has no comment on the appellant's statement of the grounds of rejection to be reviewed on appeal. Every ground of rejection set forth in the Office action from which the appeal is taken (as modified by any advisory actions) is being maintained by the examiner except for the grounds of rejection (if any) listed under the subheading "WITHDRAWN REJECTIONS." New grounds of rejection (if any) are provided under the subheading "NEW GROUNDS OF REJECTION."

(7) Claims Appendix

The examiner has no comment on the copy of the appealed claims contained in the Appendix to the appellant's brief.

(8) Evidence Relied Upon

2007/0124795	McKissick et al.	05-2007
2003/0208777	Danker et al.	11-2003
5,796,441	Oshita	08-1998

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1 – 31 are rejected under 35 U.S.C. 103(a) as being unpatentable over McKissick et al. (Pub No US 2007/0124795) in view of Danker et al. (Pub No US 2003/0208777) further in view of Oshita (Patent No US 5,796,441). Hereinafter referenced McKissick, Danker and Oshita, respectively.

Regarding **claim 1**; McKissick discloses a method of communicating comprising: receiving a text message from a user of a source set top box (Paragraphs [0076] [0131] figs 3 and 19);

transmitting the text message from the source set top box to an exchange (Paragraph [0077] fig 3; message server 118);

wherein said text message includes an identifier of a destination set top box (Paragraphs [0094] [0095] figs 6B and 14),

wherein said text message includes an identifier of said source set top box (Paragraph [0130] fig 18),

and broadcasting said output transport stream to the destination set top box (Paragraph [0083]; the message may be provided as a digital data stream that accompanies other streams such as TV programs, i.e. video and audio).

However, it is noted that McKissick fails to explicitly disclose that a plurality of data packets include said text message, an identifier of said source set top box, an identifier of a destination set top box for the text message, forwarding said plurality of data packets to a multiplexor; multiplexing said plurality of data packets and audio data and video data into an output transport stream and broadcasting said output transport stream to a plurality of destination set top boxes, the plurality of destinations set top boxes including the destination set top box for the text message.

Nevertheless, in a similar field of endeavor Danker discloses that the plurality of data packets include said text message (Paragraphs [0003] [0011] [0016] fig 1),

an identifier of said source set top box (Paragraph [0032] also exhibited on figure 2, client identification),

an identifier of a destination set top box for the text message, (Paragraph [0012] also exhibited on figure 1);

forwarding said plurality of data packets to a multiplexor (Paragraphs [0014] [0015] figs 1 and 2);

multiplexing said plurality of data packets and audio data and video data into an output transport stream (Paragraphs [0014] [0015] figs 1 element 24);

and broadcasting said output transport stream to a plurality of destination set top boxes, the plurality of destinations set top boxes including the destination set top box for the text message (Paragraphs [0006] [0014] [0016] also exhibited on fig 1).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify McKissick by specifically providing the elements mentioned above, as taught by Danker, for the purpose of allowing the transportation of the messages through the cable distribution infrastructure together with regular television programming, which avoids the need to include extra transmission mediums.

However, it is noted that McKissick and Danker still fail to explicitly disclose packetizing a message data into a plurality of data packets, and wherein said data packets include packet header information.

Nevertheless, in a similar field of endeavor Oshita discloses packetizing a message data into a plurality of data packets, and wherein said data packets include packet header information (Col. 1 lines 65-67, col. 2 lines 1-5)

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify McKissick and Danker by specifically providing the elements mentioned above, as taught by Oshita, for the purpose of implementing a component that bundles the data and formats it for delivery over the network, optimizing the media streams against packet loss.

Regarding **claim 2**; McKissick, Danker and Oshita disclose the method of claim 1; however, McKissick and Danker fail to explicitly disclose assigning a reserved program identifier to the data packets, and wherein the output transport stream is an MPEG-2 format.

Nevertheless, in a similar field of endeavor Oshita discloses assigning a reserved program identifier to the data packets, and wherein the output transport stream is an MPEG-2 (Col. 1 lines 62-67, col. 2 lines 1-5, col. 3 lines 7-13).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify McKissick and Danker by specifically providing the elements mentioned above, as taught by Oshita, for the purpose of allowing the packets to reach the right recipients implementing a well known video format.

Regarding **claim 3**; McKissick, Danker and Oshita disclose the method of claim 2; moreover, McKissick discloses receiving the broadcasted output transport stream at each of the destination set top box (Paragraphs [0063] [0127] fig 18).

However, it is noted that McKissick fails to explicitly disclose comparing the reserved program identifier to an identifier of each of the destination set top boxes; and responsive to the comparison, displaying the text message at each destination set top box having an identifier that matched the reserved program identifier.

Nevertheless, in a similar field of endeavor Danker discloses comparing the reserved program identifier to an identifier of each of the destination set top box (Paragraphs [0003] [0016] fig 1);

and responsive to the comparison, displaying the text message at each destination set top box having an identifier that matched the reserved program identifier (Paragraphs [0016] [0017] fig 1).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify McKissick by specifically providing the elements mentioned above, as taught by Danker, for the purpose of making sure that only the receivers allowed to receive a message have access to it.

Regarding **claim 4**; McKissick, Danker and Oshita disclose the method of claim 2; however, McKissick fails to explicitly disclose the step of demultiplexing the data packets, audio data and video data from the transport stream.

Nevertheless, in a similar field of endeavor Danker discloses the step of demultiplexing the data packets, audio data and video data from the transport stream (Paragraphs [0016] [0017] [0025]).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify McKissick by specifically providing the elements mentioned above, as taught by Danker, for the purpose of allowing users to retrieve the receive content locally.

Regarding **claim 5**; McKissick, Danker and Oshita disclose the method of claim 3; moreover, McKissick discloses receiving said broadcasted output transport stream at each of the destination set top box (Paragraph [0083] fig 3). Furthermore, Danker

further supports receiving said broadcasted output transport stream at each of the destination set top box (Paragraphs [0006] [0014] fig 1).

Regarding **claim 6**; McKissick, Danker and Oshita disclose the method of claim 1; moreover, McKissick discloses that said transmitting is done via telephone or cable (Paragraph [0013] and [0051] also exhibited on fig 3).

Regarding **claim 7**; McKissick, Danker and Oshita disclose the method of claim 3; moreover, McKissick discloses that said broadcasting is done via satellite, cable, or wireless (Paragraph [0013] and [0051] also exhibited on fig 3; link 18 may be a satellite link, a cable link, a microwave link, or a telephone link).

Regarding **claim 8**; McKissick, Danker and Oshita disclose the method of claim 5; moreover, McKissick discloses that said receiving is done via satellite, cable, or wireless (Paragraph [0013] and [0051] also exhibited on fig 3; link 18 may be a satellite link, a cable link, a microwave link, or a telephone link).

Regarding **claim 9**; McKissick, Danker and Oshita disclose the method of claim 4; however, McKissick fails to explicitly disclose demultiplexing said broadcasted, output transport stream at each of the destination set top boxes into said text message.

Nevertheless, in a similar field of endeavor Danker discloses demultiplexing said broadcasted, output transport stream at each of the destination set top boxes into said text message (Paragraphs [0016] [0017] [0025]).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify McKissick by specifically providing the elements mentioned above, as taught by Danker, for the purpose of allowing users to retrieve the receive content locally.

Regarding **claim 10**; McKissick discloses a method of communicating comprising: receiving a text message from a first source set top box (Paragraphs [0076] [0131] figs 3 and 19);

wherein said text message includes an identifier of a first destination set top box (Paragraphs [0094] [0095] figs 6B and 14),

wherein said text message includes an identifier of said first source set top box (Paragraph [0130] fig 18).

However, it is noted that McKissick fails to explicitly disclose that said plurality of data packets include said text message, an identifier of a first destination set top box for the text message, an identifier of said first source set top box; forwarding said plurality of data packets to multiplexor that produces a transport stream containing the data packets, audio data and video data; and broadcasting the transport stream to a plurality of destination set top boxes, the plurality of destination set top boxes including the first destination set top box.

Nevertheless, in a similar field of endeavor Danker discloses that the plurality of data packets include said text message (Paragraphs [0003] [0011] [0016] fig 1),

an identifier of a first destination set top box for the text message, (Paragraph [0012] also exhibited on figure 1);

an identifier of a first source set top box (Paragraph [0032] also exhibited on figure 2, client identification),

forwarding said plurality of data packets to a multiplexor that produces a transport stream containing the data packets, audio data and video data (Paragraphs [0014] [0015] figs 1 and 2);

and broadcasting the transport stream to a plurality of destination set top boxes, the plurality of destination set top boxes including the first destination set top box (Paragraphs [0006] [0014] [0016] also exhibited on fig 1).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify McKissick by specifically providing the elements mentioned above, as taught by Danker, for the purpose of allowing the transportation of the messages through the cable distribution infrastructure together with regular television programming, which avoids the need to include extra transmission mediums.

However, it is noted that McKissick and Danker still fail to explicitly disclose packetizing a message data into a plurality of data packets, and wherein said data packets include packet header information.

Nevertheless, in a similar field of endeavor Oshita discloses packetizing a message data into a plurality of data packets, and wherein said data packets include packet header information (Col. 1 lines 65-67, col. 2 lines 1-5)

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify McKissick and Danker by specifically providing the elements mentioned above, as taught by Oshita, for the purpose of implementing a component that bundles the data and formats it for delivery over the network, optimizing the media streams against packet loss.

Regarding **claim 11**; McKissick, Danker and Oshita disclose the method of claim 10; moreover, McKissick discloses the step of receiving another text message from a second source set top box (Paragraphs [0128] [0129] figs 3 and 18);

wherein said text message includes an identifier of a second destination set top box (Paragraphs [0094] [0095] figs 6B and 14),

wherein said text message includes an identifier of said second source set top box (Paragraph [0130] fig 18).

However, it is noted that McKissick fails to explicitly disclose that said plurality of data packets include said text message from the second source set top box, an identifier of a second destination set top box for the text message, an identifier of said second source set top box; and wherein the plurality of destination set top boxes include the second destination set top box.

Nevertheless, in a similar field of endeavor Danker discloses that the plurality of data packets include said text message from the second source set top box (Paragraphs [0003] [0011] [0016] fig 1),

an identifier of a second destination set top box for the text message, (Paragraph [0012] also exhibited on figure 1);

an identifier of a second source set top box (Paragraph [0032] also exhibited on figure 2, client identification),

and wherein the plurality of destination set top boxes include the second destination set top box (Paragraphs [0006] [0014] [0016] also exhibited on fig 1).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify McKissick by specifically providing the elements mentioned above, as taught by Danker, for the purpose of allowing the transportation of the messages through the cable distribution infrastructure together with regular television programming, which avoids the need to include extra transmission mediums.

Regarding **claim 12**; McKissick, Danker and Oshita disclose the method of claim 11; moreover, McKissick discloses that said receiving is via telephone (Paragraph [0013] and [0051] also exhibited on fig 3; link 18 may be a satellite link, a cable link, a microwave link, or a telephone link), and further comprising:

receiving the broadcasted transport stream at each of the destination set top boxes (Paragraph [0074] fig 2A).

However, it is noted that McKissick fails to explicitly disclose comparing the identifiers of the first and second destination set top boxes contained in the data packets to an identifier of each of the destination set top boxes that received the broadcasted output transport stream; responsive to the comparison, displaying the text message from the first source set top box at the destination set top box having an identifier that matches the identifier of the first destination set top box and displaying the text message from the second source set top box at the destination set top box having an identifier that matches the identifier of the second destination set top box.

Nevertheless, in a similar field of endeavor Danker discloses comparing the identifiers of the first and second destination set top boxes contained in the data packets to an identifier of each of the destination set top boxes that received the broadcasted output transport stream (Paragraphs [0016] [0017] fig 1; since a message is broadcasted to all the receivers in a network, a token uniquely identifies the one or more receiving client devices);

responsive to the comparison, displaying the text message from the first source set top box at the destination set top box having an identifier that matches the identifier of the first destination set top box and displaying the text message from the second source set top box at the destination set top box having an identifier that matches the identifier of the second destination set top box (Paragraphs [0016] [0017] fig 1).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify McKissick by specifically providing the elements mentioned above, as taught by Danker, for the purpose of allowing the transportation of

the messages through the cable distribution infrastructure together with regular television programming, which avoids the need to include extra transmission mediums.

Regarding **claim 13**, McKissick, Danker and Oshita disclose all the limitations of claim 13; therefore, claim 13 is rejected for the same reasons as in claim 8.

Regarding **claim 14**; McKissick discloses a method of communicating comprising: receiving a plurality of text message, wherein said plurality of text messages originated at a plurality of source set top boxes (Paragraphs [0076] [0131] figs 3 and 19);

wherein said text message includes an identifier of an intended destination set top box for each of the text messages (Paragraphs [0094] [0095] figs 6B and 14),

wherein said text message includes an identifier of the source set top box for each of the text messages (Paragraph [0130] fig 18),

and broadcasting said output transport stream (Paragraph [0083]; the message may be provided as a digital data stream that accompanies other streams such as TV programs, i.e. video and audio).

However, it is noted that McKissick fails to explicitly disclose that the plurality of data packets include the text messages, an identifier of an intended destination set top box for each of the text messages, an identifier of the source set top box for each of the text messages; multiplexing said plurality of data packets, audio data and video data

into an output transport stream; and broadcasting said output transport stream to a plurality of destination set top boxes, the plurality of destinations set top boxes including the intended destination set top box for each of the text messages.

Nevertheless, in a similar field of endeavor Danker discloses that the plurality of data packets include the text messages (Paragraphs [0003] [0011] [0016] fig 1),

an identifier of an intended destination set top box for each of the text messages (Paragraph [0032] also exhibited on figure 2, client identification),

an identifier of the source set top box for each of the text messages (Paragraph [0012] also exhibited on figure 1);

multiplexing said plurality of data packets, audio data and video data into an output transport stream (Paragraphs [0003] [0011] [0015] [0016] fig 1)

and broadcasting said output transport stream to a plurality of destination set top boxes, the plurality of destinations set top boxes including the intended destination set top box for each of the text messages (Paragraphs [0006] [0014] [0016] on fig 1).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify McKissick by specifically providing the elements mentioned above, as taught by Danker, for the purpose of allowing the transportation of the messages through the cable distribution infrastructure together with regular television programming, which avoids the need to include extra transmission mediums.

However, it is noted that McKissick and Danker still fail to explicitly disclose packetizing a message data into a plurality of data packets.

Nevertheless, in a similar field of endeavor Oshita discloses packetizing a message data into a plurality of data packets (Col. 1 lines 65-67, col. 2 lines 1-5)

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify McKissick and Danker by specifically providing the elements mentioned above, as taught by Oshita, for the purpose of implementing a component that bundles the data and formats it for delivery over the network, optimizing the media streams against packet loss.

Regarding **claim 15**; McKissick, Danker and Oshita disclose the method of claim 14; moreover, McKissick discloses that said plurality of text messages are received via telephone or cable (Paragraph [0013] and [0051] also exhibited on fig 3; link 18 may be a satellite link, a cable link, a microwave link, or a telephone link).

However, it is noted that McKissick fails to explicitly disclose that the output transport stream is an MPEG-2 format.

Nevertheless, in a similar field of endeavor Oshita discloses that the output transport stream is an MPEG-2 format (Col. 1 lines 62-67, col. 3 lines 7-13).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify McKissick and Danker by specifically providing the elements mentioned above, as taught by Oshita, for the purpose of allowing the packets to reach the right recipients implementing a well known video format.

Regarding **claims 16 and 17**, McKissick, Danker and Oshita disclose all the limitations of claims 16 and 17; therefore, claims 16 and 17 are rejected for the same reasons as in claims 7 and 9, respectively.

Regarding **claim 18**; McKissick, Danker and Oshita disclose the method of claim 14; moreover, McKissick discloses receiving the broadcasted output transport stream at each of the destination set top boxes (Paragraphs [0076] [0131] figs 3 and 19);

However, it is noted that McKissick fails to explicitly disclose comparing the identifiers of the intended destination set top boxes contained in the received output stream to an identifier of the destination set top boxes; and displaying each of the text messages at the destination set top box having an identifier that matches the identifier of the intended destination set top box for the text message.

Nevertheless, in a similar field of endeavor Danker discloses comparing the identifiers of the intended destination set top boxes contained in the received output stream to an identifier of the destination set top boxes (Paragraphs [0016] [0017] fig 1; since a message is broadcasted to all the receivers in a network, a token uniquely identifies the one or more receiving client devices);

and displaying each of the text messages at the destination set top box having an identifier that matches the identifier of the intended destination set top box for the text message (Paragraphs [0016] [0017] fig 1).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify McKissick by specifically providing the elements

mentioned above, as taught by Danker, for the purpose of allowing the transportation of the messages through the cable distribution infrastructure together with regular television programming, which avoids the need to include extra transmission mediums.

Regarding **claim 19**, McKissick, Danker and Oshita disclose all the limitations of claim 19; therefore, claim 19 is rejected for the same reasons as in claim 15.

Regarding **claim 20**; McKissick discloses a system for communicating comprising: a service station adapted to receive a plurality of text messages sent from a plurality of source set top boxes (Paragraphs [0076] [0077] fig 3; message server 118), wherein said text message includes an identifier of an intended destination set top box for each of the text messages (Paragraphs [0094] [0095] figs 6B and 14), wherein said text message includes an identifier of the source set top box for each of the text messages (Paragraph [0130] fig 18), and broadcasting means for broadcasting said output transport stream to a plurality of destination set top boxes (Paragraph [0083]; the message may be provided as a digital data stream that accompanies other streams such as TV programs, i.e. video and audio).

However, it is noted that McKissick fails to explicitly disclose that the plurality of data packets include the text messages, an identifier of an intended destination set top box for each of the text messages, an identifier of the source set top box for each of the text messages; a multiplexor in communication with said service station adapted to

multiplex said plurality of data packets, audio data and video data into an output transport stream; and broadcasting said output transport stream to a plurality of destination set top boxes, the plurality of destinations set top boxes including the intended destination set top box for each of the text messages.

Nevertheless, in a similar field of endeavor Danker discloses that the plurality of data packets include the text messages (Paragraphs [0003] [0011] [0016] fig 1),

an identifier of an intended destination set top box for each of the text messages (Paragraph [0032] also exhibited on figure 2, client identification),

an identifier of the source set top box for each of the text messages (Paragraph [0012] also exhibited on figure 1);

a multiplexor in communication with said service station adapted to multiplex said plurality of data packets, audio data and video data into an output transport stream (Paragraphs [0003] [0011] [0015] [0016] fig 1)

and broadcasting said output transport stream to a plurality of destination set top boxes, the plurality of destinations set top boxes including the intended destination set top box for each of the text messages (Paragraphs [0006] [0014] [0016] on fig 1).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify McKissick by specifically providing the elements mentioned above, as taught by Danker, for the purpose of allowing the transportation of the messages through the cable distribution infrastructure together with regular television programming, which avoids the need to include extra transmission mediums.

However, it is noted that McKissick and Danker still fail to explicitly disclose packetizing a message data into a plurality of data packets.

Nevertheless, in a similar field of endeavor Oshita discloses packetizing a message data into a plurality of data packets (Col. 1 lines 65-67, col. 2 lines 1-5)

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify McKissick and Danker by specifically providing the elements mentioned above, as taught by Oshita, for the purpose of implementing a component that bundles the data and formats it for delivery over the network, optimizing the media streams against packet loss.

Regarding **claim 21**; McKissick, Danker and Oshita disclose the method of claim 20; moreover, McKissick discloses that said broadcasting means is a satellite (Paragraph [0013] and [0051] also exhibited on fig 3; link 18 may be a satellite link, a cable link, a microwave link, or a telephone link).

However, it is noted that McKissick fails to explicitly disclose that the output transport stream is an MPEG-2 format.

Nevertheless, in a similar field of endeavor Oshita discloses that the output transport stream is an MPEG-2 format (Col. 1 lines 62-67, col. 3 lines 7-13).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify McKissick and Danker by specifically providing the elements mentioned above, as taught by Oshita, for the purpose of allowing the packets to reach the right recipients implementing a well known video format.

Regarding **claims 22 and 23**, McKissick, Danker and Oshita disclose all the limitations of claims 22 and 23; therefore, claims 22 and 23 are rejected for the same reasons as in claim 7.

Regarding **claim 24**; McKissick, Danker and Oshita disclose the method of claim 20; moreover, McKissick discloses that said plurality of text messages received by said service station sent from said plurality of source set top boxes are received via telephone or cable (Paragraph [0013] and [0051] also exhibited on fig 3).

Regarding **claim 25**; McKissick, Danker and Oshita disclose the method of claim 20; moreover, McKissick discloses a source set top box connected via communication means with said service station (Paragraph [0013] [0051] also exhibited on fig 3).

Regarding **claims 26, 27 and 28**, McKissick, Danker and Oshita disclose all the limitations of claims 26, 27 and 28; therefore, claims 26, 27 and 28 are rejected for the same reasons as in claims 6, 7 and 8, respectively.

Regarding **claims 29, 30 and 31**, McKissick, Danker and Oshita disclose all the limitations of claims 29, 30 and 31; therefore, claims 29, 30 and 31 are rejected for the same reasons as in claims 14, 15 and 16, respectively.

(10) Response to Argument

Appellant's arguments filed 06/21/2010 have been fully considered but they are not persuasive.

- **With respect to independent claims 1, 10, 14, 20 and 29, the appellant argues that the cited references of McKissick and Danker do not teach "broadcasting text messages that are received from users of source set top boxes", as in the claimed invention.**

Regarding claims 1, 10, 14, 20 and 29, the appellant submits that the messages of McKissick are stored on servers 106, 108 or 110 and the recipients user's set top box downloads the message from the message server after logging on to the messages server.

However, the examiner respectfully disagrees with the appellant. First of all, the examiner notes that messages stored on a server are not precluded from the interpretation of the claimed features of the invention, because the claimed limitations do not specify otherwise. The claims merely recite "broadcasting text messages that are received from users of source set top boxes".

Furthermore, McKissick does indeed disclose a message server 106, 108 within the television distribution facility 104, 116 as depicted on figure 3. The appellant asserts that a message sent in the McKissick infrastructure would only sit in the message server 106, 108 until the user logs in to the server in order to retrieve the messages received

on an individual basis, just like in an e-mail messaging distribution scheme. McKissick clearly teaches other embodiments; for example, paragraph [0080] discloses that the communication text messages between set top boxes are sent in the form of instant messages 303, where the messages are stored at the recipient-end and not at a server as argued by the appellant; also see paragraph [0125] figures 17 and 18. Additionally, McKissick teaches that when a user has selected the recipient of the message (e.g. instant message 303), the television message system may then deliver the message to the appropriate message equipment for each of the recipients, paragraph [0098]. As such, it is clear that McKissick teaches instant messages, which clearly reads on "text message" as claimed.

The appellant also states that the McKissick reference teaches providing "TV message information" with the television program data, not the actual messages that are exchanged by the users. However, the textual "TV message information" attached in an instant message (as shown in figure 18 of McKissick) is not precluded since the claimed limitations does not explicitly exclude an instant message including "TV message information". The examiner notes that the claims do not explicitly define what an "actual text message" is; at best the specification of the current application defines "text message" as a text message done by typing the text with a virtual keyboard, see page 4 line 30 – page 5 line 2 of the specification. In addition, McKissick nevertheless discloses that the instant messages supported by the system may also be text based as inputted by the set top box user implementing a keyboard interface 32, paragraphs [0055] [0058] [0070] figures 1A-C.

The system of McKissick implements the same television distribution channel path 24, i.e. coaxial or fiber optic cables, in order to broadcast instant messages between set top box users using one or more digital channels on the television distribution path 24, paragraphs [0010] [0058] figure 1A. The examiner notes that the implementation of the Danker reference simply evidences well known distribution components used on a cable distribution system implemented to distribute digital packets by implementing multiplexing techniques to send messages together with television broadcast content in the same distribution medium, paragraphs [0012]-[0015] figures 1 and 2. Therefore, McKissick and Danker clearly teach "broadcasting text messages that are received from users of source set top boxes".

- **With respect to independent claims 1, 10, 14, 20 and 29, the appellant argues that the modification of McKissick with the teachings of Danker would change the principle of operation of the McKissick reference.**

Regarding claims 1, 10, 14, 20 and 29, the appellant submits that the modification of the McKissick reference proposed by the examiner would change the principle of operation of the McKissick reference. The appellant asserts that a message sent in the McKissick infrastructure would only sit in the message server 106, 108 until the user logs in to the server in order to retrieve the messages received on an individual basis, just like in an e-mail messaging distribution scheme. The appellant argues that

the modification of McKissick by Danker would mean that the messages are no longer stored on a server to be accessed by the intended recipients on an individual basis. Since Danker digitizes, multiplexes and transmits the messages to the recipients, Danker would change the principle of operation of McKissick.

However, the examiner respectfully disagrees with the appellant. The system McKissick clearly teaches that the communication text messages between set top boxes are sent in the form of instant messages 303, where the messages are stored at the recipient-end and not at a server as argued by the appellant; also see paragraph [0125] figures 17 and 18.

Furthermore, McKissick clearly teaches other embodiments; for example, paragraph [0080] discloses that the communication text messages between set top boxes are sent in the form of instant messages 303, where the messages are stored at the recipient-end and not at a server as argued by the appellant; also see paragraph [0125] figures 17 and 18. Additionally, McKissick teaches that when a user has selected the recipients of the message (e.g. instant message 303), the television message system may then deliver the message to the appropriate message equipment for each of the recipients, paragraph [0098].

McKissick teaches the distribution infrastructure at a high level of detail, the examiner notes that the Danker reference simply teaches structural elements implemented in a television distribution system which multiplexes messages with television and audio content.

Hence, modifying the communication text messages distributed by McKissick with the digital multiplexer of Danker would not change the principle of distribution of McKissick, since as previously explained the scheme of McKissick immediately sends the instant messages to the recipients set top box, where it gets stored for a predetermined amount of time. In the same field of endeavor Danker reference evidences the well known techniques of implementing digital packets and multiplexing techniques in order to send messages together with television broadcast content in the same distribution medium, paragraphs [0012]-[0015] figures 1 and 2. Advantages of the use of a multiplexer are well known since it allows the transmission of a group of digital streams in a single digital stream.

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the cable infrastructure of McKissick by specifically providing data packets that include a text message and multiplexing said data packets with video and audio data in an output stream which is broadcasted to set top boxes including a destination set top box, as taught by Danker, for the purpose of including essential components necessary to allow the transportation of the messages through the cable distribution infrastructure together with regular television programming, which avoids the need to build and pay for extra transmission mediums, such as an additional connection to the internet for each set top box receiver.

The examiner notes that no argument has been submitted in regards to the Oshita reference. For clarity purposes, the examiner notes that the implementation of Oshita was simply included to provide evidence of well known techniques for encapsulating data by a packetizer which packetizes data into data packets, wherein said data packets include packet header information.

(11) Related Proceeding(s) Appendix

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

/Junior O Mendoza/
Examiner, Art Unit 2423

Conferees:

/Andrew Y Koenig/
Supervisory Patent Examiner, Art Unit 2423

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